

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DARNELL OTIS MCGARY,

Petitioner,

v.

MARK LINQUIST,

Respondent.

CASE NO. 3:22-cv-05809-JHC

ORDER


This matter comes before the Court on what appears to be a motion by pro se Petitioner under Federal Rule of Civil Procedure 60. Dkt. # 35. The motion lacks merit.

To recap some of the procedural history here, Petitioner claims that the requirement that he register as a sex offender renders him “in custody” within the meaning of 28 U.S.C. § 2254(a). Dkt. # 23. On April 10, 2023, Magistrate Judge J. Richard Creatura issued a report and recommendation, concluding that the Court should dismiss this matter for lack of subject matter jurisdiction. *Id.* Petitioner objected. Dkt. ## 24, 25 & 26. On May 8, 2023, the Court adopted Judge Creatura’s report and recommendation and denied a certificate of appealability. Dkt. # 27. On May 15, 2023, Petitioner sought to appeal this Court’s decision. Dkt. # 30.

1 On January 17, 2024, the Court of Appeals also denied Petitioner's request for a
2 certificate of appealability because he did not show "that 'jurists of reason would find it
3 debatable whether the petition states a valid claim of the denial of a constitutional right and that
4 jurists of reason would find it debatable whether the district court was correct in its procedural
5 ruling.'" Dkt. # 33 (quoting *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); and citing 28 U.S.C.
6 § 2253(c)(2), and *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012)). On February 1, the Court
7 of Appeals denied Petitioner's motion for reconsideration. Dkt. # 34. The court wrote, "No
8 further filings will be entertained in this closed case." *Id.*

9 Because Petitioner raises no valid ground for Rule 60 relief, the Court DENIES the
10 motion.

11 Dated this 12th day of April, 2024.

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14 John H. Chun
15 United States District Judge
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